

Amendments to the Drawings:

The attached sheet of drawings includes formal drawings of Figs 1-5. These sheets, which includes Figs. 1-5, replaces the original sheet including Figs. 1-5. Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS/ARGUMENTS

Formal drawings have been submitted herewith.

Claims 27-33 remain in this application.

Claim 34 has been added. Claim 34 is the same as claim 27 with the exception of the recitation of "consisting of" in place of "comprising". This closes or limits the claim to only the recited steps.

Claim 27 has been amended to define the dimensions of the shoe models and the image designs, define the dimensions of the outer contour perimeters of a form fitting overlay for the shoes, establish the size and proportion of the image with respect to the perimeter of the form fitting overlay and covering the entire upper surface of a shoe, above the sole, with a laminate sheet corresponding to the form fitting overlay.

In response to the Office Action of July 6, 2007, Applicant requests re-examination and reconsideration of this application for patent pursuant to 35 U.S.C. 132.

Objections to the Claims

Claims 28 and 29 stand objected to because they depend from a rejected claim. The dependency of claim 28 has been changed to claim 27 and the dependency of claim 29 has been changed to

claim 28. Applicant regrets any inconvenience this oversight may have caused the Examiner.

Interview

Applicant wishes to thank the Examiner and his supervisor for granting a telephonic interview with Applicant's representative Mr. W. Cuchlinski on October 2, 2007. It was proposed that claim 27 be amended to recite that the peelable blank covers would cover the entire top surface of the shoe. However, the Examiner believed that claim 27 would still be unpatentable over Poskanzer in view of Rifkin.

Rejection under 35 USC 103(a)

Claims 27-33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Poskanzer (US 5,943,697) in view of Rifkin (US 6,116,906).

The Examiner alleges that Poskanzer discloses

a method of aesthetically altering articles of clothing, such as skirts, vests, rainwear, boots (i.e. shoes), hats, bookbags, handbags (i.e. purses), belts, wallets and all other forms of garments and accessories (Col. 4, Lines 15-20), by applying adhesively backed laminate stickers (200, 310) with images (240) thereon, to the garment (100, 300) (Fig. 1 and Fig. 3). However, POSKANZER fails to disclose a method for designing and producing the adhesively backed laminate stickers with images thereon.

The Examiner also alleges that

RIFKIN teaches a method for designing and producing stickers to adhere to an object in order to make the object more aesthetically pleasing in a way that is entertaining and simple for the user. RIFKIN teaches the use of a display monitor (15), one or more input devices (13, 14) and a printer (20). RIFKIN teaches providing a computer program on a computer readable carrier to include a plurality of predetermined objects/models and a plurality of image designs (Col. 4, Lines 5-21). RIFKIN teaches selecting an object/model for display on the display monitor and therefore it is inherent that RIFKIN teaches a plurality of predetermined objects/models (Col. 4, Lines 22-45). RIFKIN teaches selecting one of said image designs for display on the display monitor (Col. 4, Lines 18-21 and 48-52). RIFKIN teaches selecting a surface from an upper portion of the object/model and modifying the surface of the object/model to include the image design (Col. 4, Lines 56-67) (Figures 4 and 7). RIFKIN teaches previewing the object/model (40, 56) having the image design (53-55, 41-46) on the surface thereof on the display monitor (15, 50) (Figures 1, 2 and 3) (Col. 4, Lines 36-67). RIFKIN teaches providing a plurality of printable laminate sheets (22) wherein the printable laminate sheet is cut into one or more sections to define a plurality of peelable blank covers (23-26) within the printable cloth laminate sheet (Fig. 1 and Fig. 8). RIFKIN teaches the peelable blank covers being approximate the size and shape of the selected surfaces of the upper portion of the object/model. RIFKIN also teaches printing the at least one image design upon the blank cover to produce a printed cover (Col. 5, Lines 1-18) (Fig. 1). RIFKIN teaches providing a physical object that matches the style of the selected model. RIFKIN demonstrates removing one or more of the printed covers from the printable

laminated sheet and applying one or more of the printed covers to one or more of the surfaces of the physical object whereby the physical object is aesthetically altered (Col. 5, Lines 1-18).

Finally the Examiner concludes that

it would have been obvious to one with ordinary skill in the art at the time the invention was made to have provided the method of altering clothing such as shoes by applying adhesively backed laminate stickers with an image design thereon (of POSKANZER) with a method for designing and producing adhesively backed laminate stickers with an image design thereon, in light of the teachings of RIFKIN, in order to provide a more aesthetically pleasing garment in a way that is entertaining and simple for the user.

Regarding claims 28-32, the Examiner alleges that Rifkin teaches the use of a peripheral device for importing image designs and refers to column 1, lines 24-26 to support this position. He states that these imported images provide the functions as described in the rejection of claim 27. He also alleges that Rifkin discloses various types of peripherals such as computer storage means, color scanners and digital cameras. In regard to claim 30, the Examiner recognizes that Rifkin does not disclose a scanner and alleges that a color copier is a scanner because it copiers and image to a computer. In regard to claim 32, the Examiner recognizes that neither reference discloses utilizing the World Wide Web to import an image to the computer system to define the imported image design. He alleges that it is old and well known for a person to

save an image from the World Wide Web onto a computer storage means and later print, edit or view the image. However, he offers no evidence to support this conclusion. In regard to claim 33, the Examiner alleges that Rifkin teaches the use of printable cloth laminate sheets and refers to elements 23-26 to support this statement. However, there is nothing in the disclosure of Rifkin to indicate that these stickers are made from cloth.

Applicant respectfully disagrees with the Examiner's determination that the claimed subject matter is obvious.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met (MPEP 2142). First, there must be some suggestion or motivation, either in the references themselves or in the knowledge available to one of ordinary skill in the art, to modify the references. Second, there must be a reasonable expectation of success. Finally, the prior art references (when combined) must teach or suggest all of the limitations of the claims.

Claim 27, as currently amended, recites a method of aesthetically altering shoes with user created images comprising the steps of, *inter alia*, "... providing a computer program which includes the dimensions of a plurality of predetermined shoe models and a plurality of image designs...". Neither Poskanzer nor Rifkin disclose a computer program which includes the dimensions

of a shoe. Poskanzer discloses that stickers can be applied to boots but does not disclose that the dimensions of the boot are supplied to a computer program. Rifkin discloses applying stickers to a toy vehicle but does not disclose that the dimensions of the vehicle are provided to a computer program.

Claim 27, as currently amended, also recites, *inter alia*, "... selecting one of said shoe models for display on said display monitor whereby the dimensions of the outer contour perimeter of a form fitting overlay are established and selecting one of said image designs for display on said display monitor and establishing a size and position proportional to said outer contour perimeter...". Poskaner discloses applying previously made stickers to clothing. There is no disclosure of selecting a portion of the clothing and forming the sticker to a size and position proportional to the selected portion of the clothing. Rifkin also does not disclose selecting a portion of a model and forming the sticker to a size and position proportional to the selected portion of the model.

Claim 27, as currently amended, also recites, *inter alia*, "... selecting the entire surface from an upper portion of said shoe model above a sole of said shoe model and modifying said selected surface of said shoe model to include said image design..." Poskanzer discloses applying stickers to surfaces of

various objects. The stickers are substantially smaller than the surfaces to which they are applied. This can be clearly seen in the drawings. There is no disclosure or teaching of selecting an entire surface of an object and then applying a sticker to cover the entire surface. Rifkin also teaches applying a sticker to only a portion of a surface, not the entire surface. This is illustrated in Fig. 8 wherein the stickers are applied to only a portion of the hood, roof and trunk of a toy vehicle.

Claim 29 recites that the peripheral device into which the image is imported is a scanner. Neither Poskanzer nor Rifkin disclose the use of a scanner to import an image into a system used to produce the stickers. Rifkin discloses importing the images from a CD-ROM to make the stickers, column 4, lines 5-31. Rifkin discloses that the printer is only used to print the stickers (col. 4, lines 29-31), it is not used as an input device to import the images to be printed on the stickers, as claimed in claim 28.

Claim 30 recites that the peripheral device into which the image is imported is a color copier. Neither Poskanzer nor Rifkin disclose the use of a color copier to import an image into a system used to produce the stickers. As stated above, Rifkin discloses importing the images from a CD-ROM to make the stickers, column 4, lines 5-31. Rifkin discloses that the

printer is only used to print the stickers (col. 4, lines 29-31), it is not used as an input device to import the images to be printed on the stickers, as claimed in claim 30.

Claim 31 recites that the peripheral device into which the image is imported is a camera. Neither Poskanzer nor Rifkin disclose the use of a camera to import an image into a system used to produce the stickers.

Claim 32 recites that the peripheral device into which the image is imported is the Internet. Neither Poskanzer nor Rifkin disclose the use of the Internet to import an image into a system used to produce the stickers. The Examiner alleges that it is old and well known to use the Internet to store images and later print, edit or view these images. However, he offers no evidence to substantiate this statement.

Claim 33 recites that the printable laminate sheet onto which the images is printed and placed on the entire upper surface of the shoe is a printable cloth. The Examiner alleges that Rifkin teaches the use of printable cloth laminate sheets and refers to elements 23-26 to support this statement. However, there is nothing in the disclosure of Rifkin to indicate that these stickers are made from cloth.

In light of all of the above remarks, Applicants respectfully submit that the Examiner has failed to establish a

prima facie case of obviousness and further contend that a person of ordinary skill in the art, having the references Poskanzer and Rifkin in front of him or her would not have the information and motivation necessary to arrive at Applicant's invention.

Accordingly, Applicant respectfully submits that the claimed method of aesthetically altering shoes with user created images distinguishes over the prior art and respectfully request that the rejections of claims 27-33 under 35 U.S.C. 103(a) now be withdrawn.

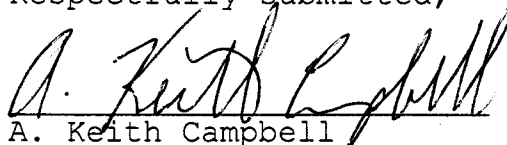
New claim 34 has been added. Claim 34 is the same as claim 27 with the exception of the recitation of "consisting of" in place of "comprising". This closes or limits the claim to only the recited steps. Neither Poskaner nor Rifkin disclose only the steps recited in claim 34.

SUMMARY

In light of the foregoing remarks and amendment to the claims, it is respectfully submitted that the Examiner will now find the claims of the application allowable. Favorable reconsideration of the application is courteously requested.

The Commissioner for Patents is hereby authorized to charge any deficiency in any fees due with the filing of this paper or credit any overpayment in any fees paid on the filing to Deposit Account No. 13-0439.

Respectfully submitted,


A. Keith Campbell
Registration # 52,686

McHale & Slavin, P.A.
2855 PGA Boulevard
Palm Beach Gardens, FL 33410
(561) 625-6575 (Voice)
(561) 625-6572 (Fax)